

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)	
)	Case No. 2:12-cv-01282-JLR
Plaintiff,)	
)	CITY OF SEATTLE'S OCTOBER 2019
v.)	QUARTERLY REPORT
)	
CITY OF SEATTLE,)	
)	
Defendant.)	
_____)	

Once the Court declared the City had achieved full and effective compliance with the Consent Decree, a new phase began in which the City must demonstrate its ability to sustain that progress. The Court-approved "Sustainment Plan," Dkt. 444, includes a commitment to provide seven quarterly reports updating the Court on the City's progress. The Sustainment Plan provides that each quarterly report will include recent data on use-of-force and crisis intervention practices, an update on the Seattle Police Department's Force Review Board and Unit, and a discussion of relevant activities of the Office of Police Accountability. This is the sixth quarterly report.

Over the past quarter, the parties and the Monitor have worked closely together on SPD's Comprehensive Use of Force Review ("UoF Review"). This assessment analyzes the force used by SPD throughout 2018 to determine whether it is constitutional, lawful, and complies with the Consent

1 Decree. The unconstitutional force documented by DOJ in its investigation is what brought about the
2 Consent Decree, and the UoF Review is a testament to the remarkable reforms accomplished over the
3 past seven years.

4 The process for the parties and the Monitor's collaboration on the UoF Review is set forth in
5 the Sustainment Plan: DOJ, SPD, and the Monitor will "collectively select a statistically valid sample
6 of cases for review . . . [and] evaluate those cases independently with the assistance of subject matter
7 experts." Dkt. 444 at 6. The findings of the UoF Review demonstrate that SPD continues to meet and
8 exceed the Consent Decree requirements. In nearly every incident reviewed, DOJ and the Monitor
9 concurred with SPD that the force used was reasonable, necessary, and proportional.

10 Additional important findings are contained in the Crisis Intervention Program Report.
11 Delivering services to and engaging with individuals in behavioral crisis is a challenge that SPD and
12 other City agencies face daily. In 2011, DOJ's investigation determined that SPD used force too readily
13 with this vulnerable population. Today's report describes how SPD now provides robust training to
14 equip officers to meet this challenge, including a forty-hour course in crisis intervention that has been
15 completed by a majority of officers who respond to calls for service. As a result, SPD currently uses
16 force in less than 2% of its contacts with people in crisis.

17 Finally, SPD's Part II Stops and Detentions Audit demonstrates that SPD continues to conduct
18 stops and frisk with appropriate legal justification and in compliance with the Consent Decree.
19 Notably, as reported recently in its annual report on stops and detentions, SPD does not use "stop and
20 frisk" as an enforcement tactic. Dkt. 547-1 at 1. More than two-thirds of SPD's Terry stops are
21 conducted in response to a 911 call (or other request for service), and more than a quarter of all stops
22 lead to an arrest. *Id.* at 5, 21.

1 During the past quarter, SPD completed its Comprehensive Use of Force Review and Part II
2 of its Stops and Detentions Audit. Both audits are being submitted to the Court concurrently with this
3 report.

4 SPD's Comprehensive Use of Force Review:

5 As described above, this report evaluates whether SPD's use of force is lawful and complies
6 with SPD's Use of Force policies corresponding to paragraphs 69-90 of the Consent Decree.
7 Within the City, there are two entities that make findings in this regard: SPD's Force Review Board
8 (FRB) and the independent Office of Police Accountability (OPA). The Force Review Board
9 serves a critical internal accountability role within SPD. It is comprised of a select group of
10 personnel who are specially trained to investigate officer uses of force. The UoF Review compiles
11 FRB's findings on the uses of force it reviewed in 2018: whether the officer took reasonable
12 efforts to de-escalate prior to using force, whether the force was reasonable, necessary, and
13 proportional, and whether the force conformed. When FRB identifies a policy violation, it sends
14 the incident to OPA.

15 The UoF Review also documents OPA's findings for cases it received in 2018. OPA
16 receives allegations of misconduct against SPD employees from the public, as well as from FRB
17 and SPD chain of command, and is responsible for investigating them. OPA has a civilian director
18 and a mix of civilian and sworn investigators. In 2018, OPA reviewed 168 cases, involving 448
19 alleged violations of SPD's use of force policies. Of those 448 alleged violations, OPA sustained
20 twenty allegations, comprising twelve uses of force by eleven unique officers. In context, that
21 means out of all 2,252 uses of force in 2018, only twelve (or 0.5%) were determined to be out of
22 policy.
23

1 These findings demonstrate that the Department has sustained compliance with the Consent
2 Decree force requirements. In its 2011 investigation, DOJ determined that SPD used
3 unconstitutional force in 20% of incidents involving Type II and Type III force. DOJ Findings
4 Letter at 4. During Phase I, the Monitor studied SPD's uses of force and determined that it
5 complied with policy—a higher bar than that applied by DOJ—more than 99 percent of the time.
6 *See Monitor's Ninth Systemic Assessment*, at 8. Today's findings demonstrate that SPD's progress,
7 documented by the Monitor in Phase I, has been sustained and continued.

8 Another important indication of how the Department interacts with the community is the
9 overall level of force. Key among today's findings, consistent with prior years' reports, is that the
10 use of force overall remains rare. In 2018, officers reported using force of any type 2,252 times, a
11 rate of just over one quarter of one percent (0.26%) of all dispatches, and of these uses of force, as
12 in prior years, the overwhelming majority (83%) involved no greater than the lowest type of
13 reportable force (such as a complaint of pain with no sign of injury or the pointing of a firearm).
14 The most serious, Type III, force—defined as force that causes or may be reasonably expected to
15 cause substantial bodily injury—remains extraordinarily rare, occurring only 25 times in 2018, or
16 0.006% of all CAD events.³

17 These findings, when compared to those of DOJ in 2011 and the Monitor in 2017,
18 demonstrate that SPD has sustained a dramatic reduction in the use of serious force. DOJ's 2011
19 investigation found that there were 1,230 incidents involving a serious (Type II or III) use of force
20 in the 28-month period from January 1, 2009, to April 4, 2011. DOJ Findings Letter at 4. In its
21

22 ³ A "CAD event" is a unique incident, given a unique identifying number, logged in
23 response to a call from the public or a report from an officer in the field of an incident or event
requiring their response.

1 Use of Force Assessment, the Monitor found that there 487 incidents involving a serious use of
 2 force—a sixty percent reduction—in the 28-month period from July 1, 2014, to October 31, 2016.
 3 Dkt. 383 at 31-32. The UoF Review shows that SPD has maintained this reduced level of serious
 4 force: there were 454 incidents involving a serious use of force in the 28-month period from
 5 January 1, 2017, to April 30, 2019.

6 The use of force by Seattle police officers continues to be an empirically rare occurrence.
 7 This finding shows that that officers continue to implement, in practice, the de-escalation training
 8 and tactics that have brought Seattle into full and effective compliance with the Consent Decree.

9 The Department of Justice and the Monitor validated the UoF Review and concluded that for
 10 nearly all of the incidents out of a statistically representative sample, the force used was reasonable,
 11 necessary, and proportional. A summary of their findings can be found in the validation section at the
 12 end of the report.

13 SPD's Part II Audit on Stops and Detentions:

14 This audit evaluated the data on temporary, investigative detentions known as *Terry* stops.⁴
 15 Its findings demonstrate that the vast majority of stops and frisks conducted by SPD officers meet
 16 constitutional requirements. Detectives from SPD's Audit, Policy, and Research Section (APRS)
 17 conducted a review of a random, statistically representative sample of all contacts reported as *Terry*
 18 stops during the period. They determined that, in 96% of the stops, the officer's report (called a
 19

20 ⁴ An investigative stop, or "Terry stop," is a temporary, investigative detention. It occurs
 21 when an officer briefly detains a person for the purpose of investigating a crime. A Terry stop falls
 22 short of an arrest and does not require probable cause, but it does require that the officer be able
 23 to identify specific, objective facts which support a reasonable suspicion that the person
 committed, is committing, or is about to commit a crime. An officer may conduct a frisk, or pat-
 down, as part of a stop only if the officer has reasonable suspicion that the subject is armed and
 dangerous. The legal authority for investigative stops and frisks was explained by the U.S.
 Supreme Court in *Terry v. Ohio*, 392 U.S. 1 (1968).

1 “Terry template”) contained a narrative that documented reasonable suspicion for the stop. There
2 was adequate reasonable suspicion for 97% of frisks. It is important to note that, for the remaining
3 stops and frisks reviewed by APRS, for which adequate documentation for the stop or frisk was
4 lacking in the Terry Template, the basis for the officer’s reasonable suspicion may have been
5 documented in the general offense report or captured in other parts of the investigative file, such
6 as on the officer’s body-worn video. Those materials, however, were not reviewed by APRS.

7 The Department of Justice and the Monitor independently validated the Department’s Part II
8 Stops and Detentions Audit. Based on their review of a sample of the Department’s Terry templates,
9 DOJ and the Monitor concluded that the Department has demonstrated sustained compliance with
10 paragraphs 140-44 of the Consent Decree. A summary of their findings can be found in the validation
11 section at the end of the report.

12 Policy Reviews: The SPD Audit Policy and Research Section (“APRS”) reviews all
13 Department policies on a three-year cycle. The Consent Decree-mandated policies are being
14 reviewed annually. SPD’s proposed revisions to its Voluntary Contacts, Terry Stops, and
15 Detentions Policy are being submitted concurrently with this filing, per the Sustainment Plan. The
16 Department of Justice and the Monitor reviewed and approved SPD’s revisions to this policy. After
17 the Consent Decree ends, SPD will continue to participate in national efforts to identify best police
18 practices and incorporate those findings into its policies.

19 The proposed revisions to SPD’s Voluntary Contacts, Terry Stops, and Detentions Policy
20 are also discussed in the City’s motion seeking the Court’s approval of the policies. (Dkt. 587.)
21 The revisions are minimal and clarifying in nature. Several changes are made to clarify the policy
22 on treatment of non-arrested companions when an officer is making an arrest. The policy addressing
23 the scope and duration of a Terry stop contains added language to make it clear that pointing a

1 firearm at an occupied vehicle (even if not at a specific person) is one example of an action that
2 further limits a subject's freedom during a Terry Stop. Throughout, the term "sergeant" is replaced
3 by "supervisor," because in some instances a lieutenant carries out the required screening of the
4 temporary detention.

5 Outcome Reports: In addition to the audits and policy reviews, SPD has continued the
6 practice it began in 2016 of publishing periodic reports summarizing policing data for the public.
7 These "outcome reports" demonstrate the concrete effects of SPD's work under the Consent
8 Decree, such as reductions in serious uses of force. During this quarter, SPD was responsible for
9 reporting on crisis intervention.

10 The 2019 Crisis Intervention Program Report, which is being filed with this report, contains
11 SPD's annual review and analysis of all contacts with members of the public who are in crisis.
12 Crisis contacts result from a request from the community (dispatched) or officer-initiated behavior
13 (on-view). Although crisis contacts increased substantially from 2017 to 2018—a trend identified
14 by SPD in last year's Crisis Intervention Program Report—the number of contacts in the first six
15 months of 2019 was 11% fewer than the same period in 2018. The recent decrease in the number
16 of crisis incidents may suggest that supportive services are increasingly reaching this vulnerable
17 population in some precincts. SPD is partnering with King County Public Health and other care
18 coordinators in the public health and public safety realms to share data on behavioral crisis.

19 A critical resource in these efforts is the fact that SPD's officers are particularly well
20 equipped to address circumstances involving people in crisis. All SPD officers receive at least eight
21 hours of annual crisis intervention training, and on average 63% of the officers assigned to 911
22 response were "CIT certified," receiving more than forty hours of crisis intervention. An officer
23 certified in crisis intervention tactics was on scene in nearly 82% of calls for service that resulted

1 in a crisis contact.

2 After the Consent Decree is complete and federal oversight has ended, the City will continue
3 to conduct the audits, policy reviews, and outcome reports on regular cycles to ensure that progress
4 continues and that the Department remains accountable to the public.

5 **II. Use-of-Force and Crisis Intervention Data**

6 This section provides data on SPD's use-of-force and crisis intervention practices for the third
7 calendar-year quarter of 2019, which runs from July 1, 2019, to September 30, 2019. The report
8 does not undertake to analyze or contextualize the data for two reasons. First, it would be
9 speculative to infer trends or draw comparisons based on one quarter of cross-sectional data.
10 Second, the Sustainment Plan, approved by the parties and the Court, sets forth a series of annual
11 audits and outcome reports which contain the Department's analyses and conclusions. As
12 contemplated in the Sustainment Plan, the Department's recent Use of Force Annual Report was
13 submitted to the Court on January 31, 2019, and the next annual report is due to the Court on January
14 10, 2020.

15 In addition to the numbers below, comprehensive data on these topics are available to the
16 public through the Department's "dashboards" on its webpage at
17 <https://www.seattle.gov/police/information-and-data/public-data-sets>. The public dashboards can be
18 used to analyze and display data from numerous, disparate sources within SPD through a data analytics
19 platform ("DAP").

20 *A. Use of Force*

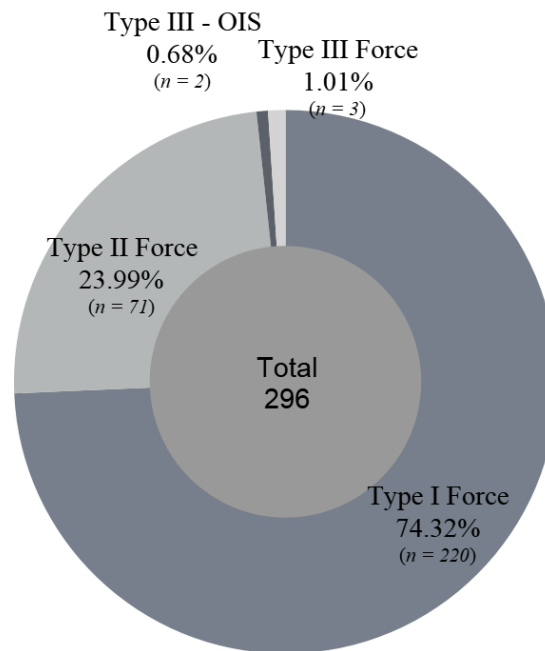
21 Two hundred and ninety-six uses of force were reported in Q3 2019. Because of the way
22 "use of force" is defined, a single incident often results in multiple reported uses of force.
23

In the third quarter of 2019, two hundred and twenty (80%) of the reported applications of force involved no greater than low-level, Type I force.⁵ Seventy-one (19%) involved Type II force. There were two officer-involved shootings. *See* Figures 1 & 2.

Figure 1. Use of Force By Quarter

	2018 Q2	2018 Q3	2018 Q4	2019 Q1	2019 Q2	2019 Q3	Total
Type I Force	477	528	462	292	259	220	2,238
Type II Force	84	99	67	71	77	71	469
Type III Force	10	2	4	2	1	3	22
Type III - OIS			1	6	3	2	12
Total	571	629	534	371	340	296	2,741

Figure 2. Q3 2019 Types of Force Used:



⁵ The types of force are defined in Title 8 of the SPD manual. In brief: Type I is low-level force that may involve transitory pain. Type II force causes or is reasonably expected to cause physical injury greater than transitory pain but less than great or substantial bodily harm. Type III force causes or is reasonably expected to cause great or substantial bodily harm.

In the context of overall encounters with the community, force is used rarely. During the third quarter of 2019, the computer-aided dispatch (“CAD”) database recorded 97,475 unique events to which officers were either called by a dispatcher or which officers observed or were alerted to while on patrol. One hundred and five of these events involved one or more reportable applications of force. That means approximately one tenth of one percent of all events involved any use of force. Sixteen (approximately one one-hundredth of one percent) of the 97,475 unique CAD events ultimately involved a use of force greater than Type I (i.e., Type II or Type III).

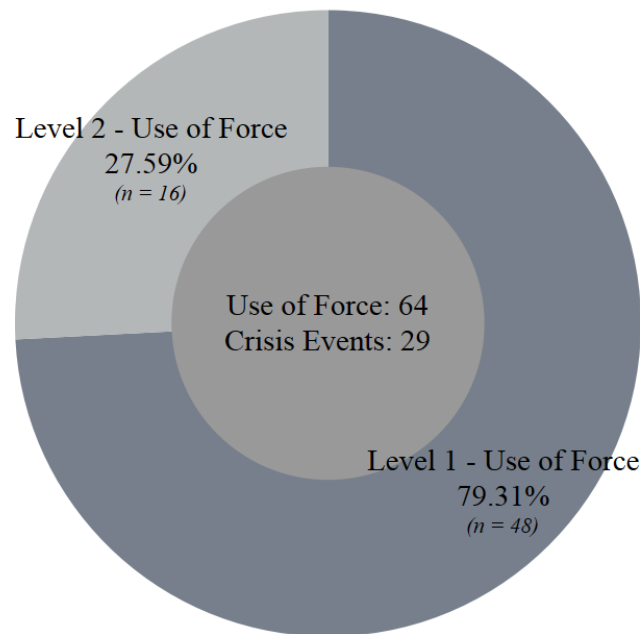
The demographic characteristics of subjects of force for the quarter are presented below in Figure 3.

Figure 3. Q3 2019 Race of Subjects of Force

Subject Race	% of Total	UoF Count
White	40.88%	121
Black or African American	30.74%	91
Not Specified	20.95%	62
Hispanic or Latino	4.05%	12
Asian	3.38%	10
Grand Total	100.00%	296

B. Crisis Intervention

During the third quarter of 2019, officers reported 2,406 incidents involving a person experiencing a behavioral crisis. Officers used force in 29 of those incidents (less than 2%). The breakdown of types of force used in crisis responses is similar to the breakdown for all uses of force, although Type II force is slightly more frequent.

Figure 4. Q3 2019 Use of Force in Crisis Events:

Of all the incidents involving a subject experiencing a behavioral crisis, approximately 21% were resolved by voluntary commitment, calling the mobile crisis team, or by referral to or notification of a community or social service support agency or shelter. The most common disposition was a decision to detain the person for their own safety under the Involuntary Treatment Act (36%). The second most common resolution was “No Action Possible or Necessary,” which means the person in crisis had left the scene or did not pose an imminent threat of self-harm or harm to others (19%). *See Figure 5 below.*

Figure 5. Q3 2019 Disposition of Crisis Contacts:

	Disposition	% of Total ..
	Emergent Detention / ITA	36.37%
	No Action Possible / Necessary	18.58%
	Chronic Complaint	3.41%
	Voluntary Committal	5.78%
	Unable to Contact	2.12%
	Shelter Transport	0.04%
	Drug / Alcohol Treatment Referral	0.08%
	Arrested (requires arrest report)	9.02%
	Case Manager / MH Agency Notified	1.21%
	CCORS (Children's Crisis Outreach Response System)	0.04%
	Courtesy Transport	1.70%
	Crisis Clinic (Crisis Connections)	0.46%
	Crisis Response Bulletin Referenced	0.33%
	CSC / CDF (Crisis Solution Center / Crisis Diversion Facility)	1.54%
	Detox	0.25%
	DMHP / Referral (DCR)	0.91%
	MCT (Mobile Crisis Team)	5.49%
	Other	5.61%
	Resources Offered / Declined	9.98%
	Shelter	0.04%
	Social Service / Alcohol and Drug / Treatment Referral	0.08%
	Spruce Street	0.04%

Note: Percentages total more than 100% because a crisis contact often leads to more than one disposition.

III. SPD Force Review Board and Unit

The SPD Force Review Board (“FRB”) and Force Review Unit (“FRU”) review all uses of force to determine if they were compliant with SPD’s Use of Force Policy. A brief summary of internal review is provided here, while the complete procedures are specified in Title 8 of the SPD Manual. After using Type I force, an officer must screen the incident with a sergeant and complete a use of force report. The sergeant investigates the incident and then elevates the review up the chain of command. Type II uses of force are reviewed in depth first by an administrative lieutenant, through the chain of command to the section captain, and then by the Force Review Unit (described below). Type III uses of force are investigated by a specially trained unit called the Force Investigation Team.

The Force Review Board (described below) provides an additional layer of review for all Type III uses of force, to include officer-involved shootings, and the most serious Type II uses of force.

FRB is “the Department’s hub of internal accountability, analysis, and continual improvement with respect to force.” *Monitor’s Second Systemic Assessment*, Dkt. 247 at 4. The FRB is a select group of SPD personnel who are specially trained to investigate officer uses of force which meets regularly to make determinations as to (1) whether a use-of-force investigation is thorough and complete; (2) whether the force was compliant with SPD policy, and consistent with training, and core principles; and (3) whether any broader, systemic issues need to be addressed with respect to policy, tactics, equipment, or otherwise.

By policy, the FRB reviews all cases in which Type III force is used, including all officer involved shootings. The FRU, comprised of a captain, a lieutenant, a sergeant, and two detectives, reviews all Type II uses of force. When certain factors are present in a Type II case—such as the use of less-lethal tools or use of a canine—the FRU places it on the calendar to be reviewed by the FRB. In the third quarter of 2019, the FRB and FRU reviewed 37 cases.

Number of Cases Reviewed By Quarter:

Quarter	FRB	FRU
Q4 (10/01/18-12/31/18)	59	20
Q1 (1/01/19-3/31/19)	28	11
Q2 (4/01/19-6/30/19)	20	14
Q3 ⁶ (7/01/19-9/30/19)	23	15

⁶ One of the cases in the third quarter is a 10% case (a Type I or II case reviewed by FRB for quality control) that is counted twice in this chart, because both FRU and FRB reviewed it in the third quarter.

A total of 133 officers were involved in the 37 cases reviewed by FRU and FRB this quarter. The numbers below represent the number of officers involved across the cases, aggregated, and the determination by FRB and FRU as to whether each officer's actions were approved as consistent with policy and training.

Q3 2019 Most Serious Type of Force Used in Each Case

Type I	0
Type II	34
Type III	2
Officer Involved Shooting	2
In-Custody Death	0
Total	38

Q3 2019 Force Review Findings by Officer:

Approved	99
Not Approved	0
Deferred to OPA	1
N/A ⁷	33
Total	133

For all 99 of the officers reviewed by the FRB and FRU in the second quarter of 2019, the force used was found to be reasonable, necessary, proportional, and in conformance with the Department's Use of Force Policy. In one instance, a matter was deferred to OPA, and the FRB/U made no determination, per policy. The referral to OPA was made by FIT.

Since late 2015, the FRB/U has generated recommendations for all systemic issues identified during its discussions of force incidents. Once the FRB or FRU identifies an issue and

⁷ In the cases reviewed by FRB/U, 33 officers were involved in tactics and decision making who did not use force. In reviewing the actions of these officers, FRB/U made no findings on the use of force.

1 determines that policy, procedure, training, or other action is appropriate, the recommendation is
2 entered into SPD's workflow management system (IAPro) and the Assistant Chief of the
3 Professional Standards Bureau then assigns it to the appropriate bureau chief for consideration.
4 Recommendations that have significant budget implications, arise from high-profile cases, and
5 those that stem from officer-involved shootings go through an additional step: they are reviewed
6 directly by the Deputy Chief of Operations or Command Staff as appropriate, and then distributed
7 to the appropriate bureau chief. The Professional Standards Bureau ensures that all
8 recommendations receive a response; if a unit commander does not implement the
9 recommendation then the commander provides a response to the Professional Standards Bureau
10 Assistant Chief in closing out the assignment.

11 Examples of FRB recommendations implemented or adopted this quarter include:

- 12 • Adding tape, color-coded by squad, with officers' name and badge number to the back of
13 bicycle uniform helmets to enable better identification of officers in video of the incident.
- 14 • Modifying the current hospital guard policy to require that a supplemental report be completed
15 if a hospital guard is canceled prior to booking or charging. This information will now be
16 documented so that people reviewing an incident are informed as to who made the decision
17 and why the decision was made.
- 18 • Identifying body-worn video from an incident and recommending it as a training video for
19 purposes of scene coordination, time, distance, shielding, and contact team formation. The
20 Board forwarded it to the Training Unit, which has incorporated it into 2020 training.

21 **IV. Office of Police Accountability**

22 The Office of Police Accountability ("OPA") has authority over allegations of misconduct
23 against SPD employees relating to SPD policy and federal, state, and local law. It investigates and
makes recommended findings to the Chief of Police. The organization is led by a civilian director and
deputy staff, while its investigations are currently carried out by SPD sergeants. OPA is continuing to
civilianize its investigators.

1 During the third calendar-year quarter of 2019, OPA received 270 contacts. Contacts include
2 “external” complaints from members of the community and “internal” referrals from SPD
3 employees (primarily the chain of command). Seventy-eight percent of the contacts in the fourth
4 quarter were external and 22% were initiated internally by SPD. Professionalism was the most
5 frequent misconduct allegation made to OPA, and it comprised 25% of all allegations received.
6 Seventy-three of 270 contacts classified by OPA in Q3 of 2019, or 27%, were classified for
7 investigation. Two contacts were classified for Rapid Adjudication, meaning there will be
8 discipline with no investigation.

9 In 10% of cases in which findings were issued in the third quarter, OPA recommended
10 that at least one allegation be sustained. The Chief of Police overturned one OPA recommended
11 finding in the third quarter.

12 In addition to investigating allegations of misconduct, OPA recommends policy changes
13 to SPD when its investigations indicate that issues with Department policy, rather than actions of
14 individual officers, gave rise to a complaint. Those investigations result in a finding of “Not
15 Sustained – Management Action” and form the basis of OPA’s management action
16 recommendations. In the third quarter of 2019, OPA issued three new management action
17 recommendations.

18 **V. Conclusion**

19 The recent assessments of SPD’s use of force and *Terry* stops provide powerful evidence of
20 continued constitutional policing in Seattle. In addition, the Crisis Intervention Program Report shows
21 that SPD uses force rarely in its interactions with people experiencing behavioral crisis. Today’s
22 findings show that SPD has maintained compliance and continued to pursue progress in the critical
23 areas that were identified in DOJ’s 2011 investigation and which led to the Consent Decree.

1 DATED this 31st day of October, 2019.

2 For the CITY OF SEATTLE

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4 PETER S. HOLMES
Seattle City Attorney

5
6 s/ Kerala T. Cowart
Kerala T. Cowart, WSBA #53649
Assistant City Attorney
7 Seattle City Attorney's Office
8 701 Fifth Avenue, Suite 2050
Phone: (206) 733-9001
9 Fax: (206) 684-8284
Email: kerala.cowart@seattle.gov

CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Brian T. Moran	bmoran@usdoj.gov
Christina Fogg	Christina.Fogg@usdoj.gov
Gregory Colin Narver	gregory.narver@seattle.gov
Kerry Jane Keefe	kerry.keefe@usdoj.gov
Peter Samuel Holmes	peter.holmes@seattle.gov
Jeff Murray	jeff.murray@usdoj.gov
Matthew Waldrop	James.waldrop@usdoj.gov
Ronald R. Ward	Ron@wardsmithlaw.com
Timothy D. Mygatt	timothy.mygatt@usdoj.gov
Gary T. Smith	gary.smith@seattle.gov
Hillary H. McClure	hillarym@vjmlaw.com
Kristina M. Detwiler	kdetwiler@unionattorneysnw.com
Merrick Bobb	mbobb@pacbell.net
Bruce E.H. Johnson	brucejohnson@dwt.com
Eric M. Stahl	ericstahl@dwt.com
David A. Perez	dperez@perkinscoie.com
Anna Thompson	annathompson@perkinscoie.com

DATED this 31st day of October, 2019, at Seattle, King County, Washington.

/s/ Kerala Cowart
Kerala Cowart, WSBA #53649
Assistant City Attorney
E-mail: kerala.cowart@seattle.gov